

Weather for Pendleton



Sunny  
Time: 12:30 pm  
Temp: 67 F  
RealFeel Temp: 70 F  
Humidity: 44 %  
Winds: NNW at 5.76 mph

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Wednesday, October 13, 2004

# Appeals court rejects Qwest challenge to fees in Pendleton, other Oregon cities

From The Associated Press and local reports

PORTLAND — A federal appeals court ruled Tuesday that Qwest Communications International Inc. must pay millions of dollars in fees levied by Pendleton and nine other Oregon cities for use of public rights of way.

The 9th U.S. Circuit Court of Appeals rejected Qwest's challenge to the fees. The 10 cities, including Portland, are charging the Denver-based regional telephone company 7 percent of revenue earned within the cities in exchange for the right to operate its equipment and lay wire.

Qwest pays Pendleton \$8,000 to \$12,000 per month, according to Pete Wells, Pendleton city attorney. He said Mayor Bob Ramig is pleased that the appeals court has upheld the right to collect revenue-based franchise fees from Qwest.

"That maintains the right to raise a significant portion of the city's revenue for public services," Wells said, adding that he believes the Pendleton ordinance will be upheld in the further proceedings the Court of Appeals has ordered.

Portland led a legal battle against Qwest over whether the Federal Telecommunications Act of 1996 prevents cities from charging fees based



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on revenue.

U.S. Magistrate John Jelderks ruled in March 2002 the cities could charge Qwest the fees, and the appeals court upheld his ruling.

Pam Beery, one of the attorneys representing the cities, praised the ruling.

“We’re delighted with the opinion obviously,” Beery said.

Qwest has been paying the cities on a regular basis pending the appeal after Jelderks rejected an initial move by Qwest that asked him to order the cities to wait until the appeals court ruled before imposing the fees, Beery said.

Officials in Portland were not immediately available for comment. Qwest officials were reviewing the ruling and also were not immediately available.

Besides Portland and Pendleton, cities who joined the lawsuit to impose the fee are Ashland, Eugene, Happy Valley, Keizer, North Plains, Redmond, Salem and Springfield. Other cities around the state and the rest of the nation also impose such fees.

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